

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ISAAC MARTINEZ,) 1:11-cv-00215-OWW-SKO-HC
)
Petitioner,) ORDER RE: FINDINGS AND
) RECOMMENDATIONS (DOC. 10)
)
v.) ORDER DISMISSING WITHOUT LEAVE TO
) AMEND PETITIONER'S CLAIMS IN THE
JAMES D. HARTLEY,) FIRST AMENDED PETITION THAT ARE
) BASED ON STATE LAW AND CONCERNING
Respondent.) THE STATE POST-CONVICTION PROCESS
) (DOC. 9)
)
_____) FINDINGS AND RECOMMENDATIONS
TO REFER THE REMAINING CLAIMS IN
THE FIRST AMENDED PETITION BACK
TO THE MAGISTRATE JUDGE

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

On August 1, 2011, the Magistrate Judge filed findings and recommendations to dismiss without leave to amend Petitioner's claims based on state law and his claim concerning delay in the post-conviction processes of the state court. It was further

1 recommended that upon dismissal of the claims that are not
2 cognizable, the proceeding be referred back to the Magistrate
3 Judge for further proceedings.

4 The findings and recommendations were served on all parties
5 on the same date and informed the parties that objections could
6 be filed within thirty days. Although over thirty days have
7 passed, no objections have been filed.

8 In accordance with the provisions of 28 U.S.C. § 636
9 (b)(1)(C), this Court has conducted a *de novo* review of the case.
10 Having carefully reviewed the entire file, the Court finds that
11 the report and recommendations are supported by the record and
12 proper analysis.

13 Accordingly, it is ORDERED that:

14 1) The Findings and Recommendations filed on August 1, 2011,
15 are ADOPTED IN FULL; and

16 2) Petitioner's claims based on state law and his claim
17 concerning delay in the post-conviction processes of the state
18 court, set forth in the first amended petition, are DISMISSED
19 without leave to amend; and

20 3) The matter is REFERRED back to the Magistrate Judge for
21 further proceedings. IT IS SO ORDERED.

22 **Dated: September 12, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE